

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 125

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE A DEFINITION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2103, Idaho Code, be, and the same is hereby amended to read as follows:

54-2103. DEFINITIONS. As used in this chapter:

(1) "Accredited continuing education activity" means a provider and course, seminar, scientific program or any other activity approved by the board or its designees for continuing education credit.

(2) "Accredited or approved school of veterinary medicine" means any veterinary college or division of a university or college inside or outside the United States or Canada that offers the degree of doctor of veterinary medicine, veterinary medicine doctor, or its equivalent and is accredited or approved by the council on education of the American veterinary medical association or other accrediting agency or association approved by the board.

(3) "Allied health professional" means a person holding a current active license, in good standing, in any state to practice one (1) of the healing arts including, but not limited to medicine, dentistry, osteopathy, chiropractic, acupuncture and podiatry.

(4) "Anesthetized" means any condition of general anesthesia, caused by the administration of a drug or combination of drugs in sufficient quantity to produce a state of unconsciousness or disassociation and blocked response to a given pain or alarm stimulus.

(5) "Animal" means any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(6) "Assistant" means any individual who is employed by an actively licensed veterinarian to perform acts pertaining to the practice of veterinary medicine and receives compensation for such acts from the employing veterinarian but is not a certified veterinary technician or licensed veterinarian.

(7) "Board" means the state board of veterinary medicine.

(8) "Certified euthanasia agency" or "CEA" means a law enforcement agency, an animal control agency or a society for the prevention of cruelty to animals, which has been inspected and certified by the euthanasia task force or the board.

(9) "Certified euthanasia technician" or "CET" means:

(a) A person employed by a certified euthanasia agency, ~~or a law enforcement employee working under the indirect supervision of a licensed veterinarian,~~ but not to include an individual employed as a technician by animal research laboratories, who is instructed and certified by the euthanasia task force or the board as defined in the rules of the board.

(b) Any person who is trained prior to December 31, 1992, in euthanasia methods, in a course approved by the board, may be certified upon presentation of evidence of such training to either the euthanasia task force or the board.

(10) "Certified veterinary technician" means a person who has fulfilled the certification requirements prescribed by board rule and has been certified by the board to practice veterinary technology in this state.

(11) "Consultation" means a deliberation between two (2) or more veterinarians concerning the diagnosis of a disease or the proper management of the case.

(12) "Credit hour" means fifty (50) minutes of participation in an accredited continuing education activity.

(13) "Dentistry" is the practice of veterinary medicine and means the application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue. Dentistry includes, but is not limited to:

(a) "Preventive dental procedures" including, but not limited to, the removal of calculus, soft deposits, plaque, stains, and floating to shape the teeth above the gum line or the smoothing, filing or polishing of tooth surfaces above the gum line; and

(b) "Operative dentistry/oral surgery" or any other dental procedure that invades the hard or soft oral tissue including a procedure that alters the structure of one (1) or more teeth, or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth.

(14) "Direct supervision" means the supervisor is on the premises where the animal is being treated, is quickly and easily available and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(15) "Discipline" means board action including, but not limited to:

(a) Refusing to issue, renew or reinstate a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(b) Denial, revocation, suspension, sanction, probation or voluntary surrender of a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(c) The ability to enter into consent agreements and negotiated settlements with licensed veterinarians, certified veterinary technicians, certified euthanasia agencies and certified euthanasia technicians;

(d) The ability to bring an administrative or civil action against any person in or outside of this state who practices veterinary medicine, veterinary technology or who performs euthanasia within this state.

(16) "Emergency" means that the animal has been placed in a life-threatening condition where immediate treatment is necessary to sustain life.

(17) "Emergency veterinary facility" means any facility with the primary function of receiving, treating, and monitoring emergency patients during its specified hours of operation or that displays to the public any sign, card, or advertisement that indicates it is an emergency veterinary clinic or hospital. An emergency veterinary facility may be an independent after-hours service, an independent twenty-four (24) hour service, or it may be part of a full-service veterinary medical facility.

1 (18) "Euthanasia task force" means a task force established by the board for the purposes
 2 of training, examining, certifying and inspecting certified euthanasia agencies and certified
 3 euthanasia technicians.

4 (19) "Extra label use" means the actual or intended use of a human or veterinary drug in
 5 an animal in a manner that is not in accordance with the drug's labeling.

6 (20) "Floating" means shaping the posterior (cheek) teeth and the incisors (cutting teeth)
 7 in horses, mules and donkeys through the use of hand floats, rasps, burs, mechanical files or
 8 other file-like instruments to restore balance, allow more efficient mastication, and reduce pain
 9 and trauma to the periodontal tissues.

10 (21) "Herd, litter or flock" of animals means animals managed as a group for purposes
 11 including, but not limited to, breeding, sale, show or food production.

12 (22) "Immediate supervision" means the supervisor is in the immediate area, in audible
 13 and visual range of the animal patient and the person treating the patient and the animal
 14 has been examined by the supervising veterinarian as acceptable veterinary medical practice
 15 requires.

16 (23) "In good standing" means that an applicant:

17 (a) Has not been the recipient of any administrative penalties regarding his practice
 18 of veterinary medicine including, but not limited to, fines, formal reprimands, license
 19 suspensions or revocations (except for license revocations for nonpayment of license
 20 renewal fees) or probationary limitations, or has not entered into any consent agreement
 21 or negotiated settlement that contains conditions placed by a board on his professional
 22 conduct and practice, including any voluntary surrender of a license; and

23 (b) Has never had his United States drug enforcement administration privileges restricted
 24 or revoked; and

25 (c) Is not currently under investigation by another veterinary licensing authority for acts
 26 which would provide a basis for disciplinary action in this state, as determined by the
 27 board; and

28 (d) Has no physical or mental impairment related to drugs, alcohol, or a finding of
 29 mental incompetence by a physician that would limit the applicant's ability to undertake
 30 the practice of veterinary medicine in a manner consistent with the safety of a patient or
 31 the public; and

32 (e) Has not been convicted of a felony as defined in chapter 1, title 18, Idaho Code; and

33 (f) Has no criminal conviction record or pending criminal charge relating to an offense
 34 the circumstances of which substantially relate to the practice of veterinary medicine.

35 Applicants who have criminal conviction records or pending criminal charges shall
 36 require appropriate authorities to provide information about the record or charge directly
 37 to the board in sufficient detail to enable the board to make a determination whether the
 38 record or charge is substantially related to the practice of veterinary medicine.

39 (24) "Indirect supervision" means the supervisor is not on the premises but is available
 40 for immediate contact by telephone, radio or other means, has given either written or
 41 oral instructions for treatment of the animal patient, the animal has been examined by the
 42 supervising veterinarian as acceptable veterinary medical practice requires, and the animal, if
 43 previously anesthetized, has recovered to the point of being conscious and sternal.

44 (25) "Legend/Prescription drug" means any drug which, under federal law, regulation or
 45 rule, is required, prior to being distributed or delivered, to be labeled with one (1) of the
 46 following statements: "Caution: Federal law restricts this drug to be used by or on the order of

a licensed veterinarian," or "Caution: Federal law prohibits dispensing without a prescription," or "RX Only," or a drug which is required by any applicable state or federal law, rule or regulation to be distributed or dispensed pursuant to a prescription only, or is restricted to use by licensed practitioners only.

(26) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.

(27) "Malpractice" means, but is not limited to:

(a) Treatment in a manner contrary to accepted veterinary practices and with injurious results; or

(b) Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of the professional practice of veterinary medicine; or

(c) Failure to provide adequate supervision, except in an emergency situation; or

(d) Allowing an unqualified individual to perform a procedure that is part of the practice of veterinary medicine; or

(e) The negligent practice of veterinary medicine, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death.

(28) "Medical incompetence" means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients.

(29) "Mobile clinic" means a vehicle including, but not limited to, a camper, motor home, trailer or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(30) "On-call emergency service" means a veterinary medical facility that is available to provide emergency veterinary services as requested if a veterinarian is available.

(31) "Owner/Ownership" means ownership as defined by the laws of property and ownership, chapter 1, title 55, Idaho Code, and chapter 1, title 73, Idaho Code.

(32) "Person" means any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(33) "Physical or mental incompetence" means the veterinarian's ability to practice veterinary medicine with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any mental or physical disability.

(34) "Practice of veterinary medicine" in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine and means:

(a) To directly or indirectly diagnose, treat, correct, change, relieve or prevent animal disease, deformity, defect, injury or other physical or mental conditions; including the prescription or administration of any drug, medicine, biologic, apparatus application, anesthetic or other therapeutic or diagnostic substance or technique, or the use of any obstetrical procedure or any manual or mechanical procedure for artificial insemination, for testing or examining for pregnancy, fertility evaluation, embryo transplant, grading of fresh semen, or to render advice or recommendation with regard to any of the above.

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subsection (34)(a) of this section.

(c) To use any title, words, abbreviations or letter in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsection (34)(a) of this section, except where such person is a licensed veterinarian.

(35) "Professional supervision" means the supervisor is in daily contact by telephone, radio or other means with the temporary licensee.

(36) "Referral" means the transfer of responsibility for diagnosis and treatment from the referring veterinarian to the receiving veterinarian, or from the referring veterinarian to the board-certified specialist, or from the referring veterinarian to an allied health professional.

(37) "Regular employee" means a person who performs services for the animal's owner other than, or in addition to, feeding, boarding, castrating and dehorning, but does not include independent contractors or agents.

(38) "Supervision" means the action or process of directing activities or a course of action, and pertains to any and all employees of the veterinarian.

(39) "Supervisor" means an actively licensed veterinarian employing and utilizing the services of a temporary licensee, certified veterinary technician, veterinary technician, veterinary technician with a temporary certification, veterinary assistant, certified euthanasia technician, or as provided by rule. A supervisor shall be individually responsible and liable, regardless of the supervision provided, for all damages arising out of his own acts or omissions or for the performance of any acts and omissions pertaining to the practice of veterinary medicine that are delegated to the temporary licensee, certified veterinary technician, veterinary technician, veterinary assistant or certified euthanasia technician. Nothing herein shall be construed to deprive the board of its disciplinary authority with respect to the temporary licensees, certified veterinary technicians, veterinary technicians, veterinary assistants or certified euthanasia technicians.

(40) "Unethical or unprofessional conduct" means to knowingly engage in conduct of a character likely to deceive or defraud the public, false or misleading advertising or solicitation, obtaining any fee or compensation by fraud or misrepresentation, sharing office space and working in conjunction with any person illegally practicing veterinary medicine, employing either indirectly or directly an unlicensed or uncertified person to perform acts pertaining to the practice of veterinary medicine, except as provided by law or rule, or the violation of any law or rules adopted by the board pertaining to unethical or unprofessional conduct, or that provide a code of professional conduct to be followed and carried out by persons licensed or certified by the board.

(41) "Unlicensed practice" means:

(a) The practice of veterinary medicine in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, without a valid, unexpired, unrevoked, and unsuspended active license or certification in this state to do so, except as provided by law or rule; or

(b) Representing one's self through offerings, advertisements or use of professional titles or designations as being qualified to practice veterinary medicine.

(42) "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from an accredited or approved school of veterinary medicine or as otherwise provided by law or rule.

(43) "Veterinarian on call" means a veterinarian is not present at the veterinary medical facility, but is able to respond within a reasonable time to requests for emergency veterinary services.

1 (44) "Veterinarian on premises" means a veterinarian is present at the veterinary medical
2 facility and is prepared and qualified to render veterinary services.

3 (45) "Veterinary medical facility" means any premises, office, unit, structure, mobile unit,
4 or area utilized for the practice of veterinary medicine other than the premises of an owner
5 when used for treatment of the owner's animal.

6 (46) "Veterinary technician" means a person who has graduated from a veterinary
7 technology program accredited or approved by the council on education of the American
8 veterinary medical association, or other accrediting agency approved by the board, or a person
9 who has received equivalent training as set forth in the rules of the board.

10 (47) "Veterinary technology" means the performance of services within the practice
11 of veterinary medicine by a person employed by a licensed veterinarian to perform duties
12 that require an understanding of veterinary medicine in order to carry out the orders of the
13 veterinarian. Veterinary technology does not include prognosis, diagnosis, operative dentistry,
14 deliberate tooth extraction procedures or the prescribing of treatment or performing surgery of
15 any kind.